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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/768,331	01/30/2004	Albert R. Ancil	18005 USA	6536
27081	7590	05/15/2006	EXAMINER	
OWENS-ILLINOIS, INC. ONE SEAGATE, 25-LDP TOLEDO, OH 43666			WOLLSCHLAGER, JEFFREY MICHAEL	
			ART UNIT	PAPER NUMBER

1732

DATE MAILED: 05/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/768,331

Applicant(s)

ANCTIL ET AL.

Examiner

Jeff Wollschlager

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) 2,6 and 9-14 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-5,7 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 1/30/04; 6/13/05
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

Applicant's election with traverse of claims 1, 3-5, 7, and 8 in the reply filed on April 26, 2006 is acknowledged.

Claims 9-14 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. These claims are withdrawn **without** traverse

Claims 2 and 6 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on April 26, 2006.

The traversal is on the ground(s) that claims 2 and 6 are product-by-process claims that are entirely defined by the process limitations. This is not found persuasive because when evaluating product-by-process claims, the process limitations are considered only insofar as they affect the structure of the final product. For example, if the prior art teaches the same structure of the final product claimed but does not teach the suggested process, the product lacks novelty and would be rejected despite the differences between the processes of making the product (MPEP 2113).

The traversal is also on the grounds that the search of the product will involve the same art as the search of the method. In other words, applicant claims there is no undue burden on the examiner to search both inventions. This is not found persuasive because examining these distinct inventions would require a different search as

evidenced by the fact that they have acquired a separate status in the art in view of their different classification.

The requirement is still deemed proper and is therefore made FINAL.

### ***Drawings***

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference characters 318 and 320 have been used to designate both female features of the mold and an actuator assembly and a cylinder, respectively (see paragraphs [0033 – 0034]). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: The disclosure refers to Figure 8 (paragraphs [0033, 0036], for example) although no Figure 8 is provided. Additionally, the word "preform" is misspelled "perform" throughout the disclosure. Appropriate correction is required.

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Julian (U.S. Patent 4,941,815; issued July 17, 1990).

Regarding claim 1, Julian teaches a method of injection molding an article comprising the steps: providing a plurality of finish blocks/neck molds/neck sleeves and closing the plurality of finish blocks to form a neck-finish mold cavity (Figure 8, element (62), col. 7, lines 6-10; col. 1, lines 16-19), providing a plurality of mold bodies and closing the plurality of mold bodies to form a body mold cavity (Figure 8, elements (54) and (56)), providing at least one core portion/molding surface in at least one of the plurality of finish blocks and mold bodies (Figure 6 – external threads; Figure 8, element

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(48), col. 7, lines 13-20; col. 8, lines 17-24), providing at least one pocket/cavity in at least one of the plurality of finish blocks and mold bodies (Figure 8, elements (66), (18), (70), (55) and (16)), advancing at least one of the core portions toward the pocket/cavity where the core portion cooperates with the pocket to define at least one cavity for forming at least one radially extending element of the article (Figure 8, elements (66), (18), (70), (55) and (16); col. 8, lines 17-24).

It is noted that the preferred embodiment taught by Julian is to use a continuous finish block/neck mold/neck sleeve to form the neck-finish mold cavity for applications where a parting line/seam is undesirable (col. 1, lines 15-21; col. 7, lines 6-8). In instances where a seam is not of concern, a plurality of finish blocks are inherently disclosed since seams are formed by the joining of individual mold pieces.

As to claim 3, Julian teaches the core portions are in a fixed position on the mold bodies and the mold bodies and core portions are advanced in unison (Figure 6, Figure 8, col. 7, lines 3-20).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Julian (U.S. Patent 4,941,815; issued July 17, 1990).

Regarding claim 5, Julian teaches a method of injection molding a plastic preform for subsequent blow molding a container, the plastic preform having a generally longitudinal axis and a radially extending element comprising the steps: providing a plurality of finish blocks/neck molds/neck sleeves where at least one of the plurality of finish blocks includes a pocket that partially defines a cavity for the radially extending element and closing the finish blocks together to form a neck-finish mold cavity (Figure 8, elements (16), (62), col. 7, lines 6-10; col. 1, lines 16-19; col. 8, lines 16-24), providing a plurality of mold bodies wherein at least one of the plurality of mold bodies includes a core portion that partially defines the cavity for the radially extending element of the plastic preform (Figure 6; Figure 8, col. 7, lines 13-20), advancing the core portions of the mold bodies toward the plurality of finish blocks whereby the core portion and the pocket cooperate to define a cavity for the radially extending element (Figure 7, element (40), Figure 8 elements (66), (18), (70), (55) and (16)), injecting a material into the body mold cavity, neck-finish mold cavity, and the cavity for the radially extending

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element (Figure 8), retracting the core portion away from the plurality of finish blocks (Figure 7, note arrows associated with element (40)), opening the plurality of finish blocks and mold bodies to remove the preform/container from the mold body without damage to the radially extending element. (Figure 7).

Julian does not explicitly teach that the at least one core portion/molding surface that cooperates with the pocket/cavity to define the radially extending element is axially advanced. However, it would have been *prima facie* obvious to one of ordinary skill in the art at the time of the claimed invention to include axial movement of the mold bodies containing at least one core portion/molding surface for the purpose of integrating the mold bodies with the axially advancing plastic injection means apparatus to reduce the number of pieces of separate equipment employed for moving individual elements (Figure 7, "inject plastic" element, mold body (54) and (56)) and to assist in moving the mold bodies out of the way of the rotating turret with requiring excessive vertical movement of the mold bodies or the turret (Figure 7, element (46)). It has been found by the courts that the process of making parts integral (*In re Larson*, 340 F.2d 965, 968, 144 USPQ 347, 349 (CCPA 1965)) and shifting the location of parts (*In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950) are obvious modifications.

As to claim 7, Julian teaches the core portions are in a fixed position on the mold bodies and the mold bodies and core portions are advanced in unison (Figure 6, Figure 8, col. 7, lines 3-20).

Claims 4 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Julian (U.S. Patent 4,941,815; issued July 17, 1990) in view of Starkey (U.S. Patent 6,116,891; issued September 12, 2000).

As to claim 4, Julian teaches the method of claim 1 as discussed in the 102(b) rejection above, but does not teach providing the at least one core portion in a movable position on at least one of the mold bodies wherein the step of advancing comprises advancing the core portion. However Stackey teaches a method of employing a movable core which is integrated with a mold body for the purpose of creating recesses, undercuts or apertures (e.g. radially extending elements) in injection molded plastic parts wherein the core is advanced relative to the mold body (Abstract; Figure 2, elements (48-movable core), (46-plastic part), (14- mold half)).

Therefore it would have been *prima facie* obvious to one of ordinary skill in the art at the time of the claimed invention to modify the method of Julian for injection molding an article with radially extending elements with the method of Stackey of providing an integrated movable core for forming recesses, undercuts or apertures for the purpose, as taught by Stackey, of not needing to create and customize additional mold pieces (Abstract) such as the additional sleeves employed by Julian to form tamper resistant and child resistant stops (col. 8, lines 17-24). Therefore the claimed invention as a whole is rendered obvious over the combined teaching of the prior art.

As to claim 8, Julian teaches the method of claim 5 as discussed in the 103(a) rejection above, but does not teach providing the at least one core portion in a movable position on at least one of the mold bodies wherein the step of advancing comprises

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advancing the core portion. However Stackey teaches a method of employing a movable core which is integrated with a mold body for the purpose of creating recesses, undercuts or apertures (e.g. radially extending elements) in injection molded plastic parts wherein the core is advanced relative to the mold body (Abstract; Figure 2, elements (48-movable core), (46-plastic part), (14- mold half)).

Therefore it would have been *prima facie* obvious to one of ordinary skill in the art at the time of the claimed invention to modify the method of Julian for injection molding an article with radially extending elements with the method of Stackey of providing an integrated movable core for forming recesses, undercuts or apertures for the purpose, as taught by Stackey, of not needing to create and customize additional mold pieces (Abstract) such as the additional sleeves employed by Julian to form tamper resistant and child resistant stops (col. 8, lines 17-24). Therefore the claimed invention as a whole is rendered obvious over the combined teaching of the prior art.

### ***Conclusion***

All claims are rejected.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeff Wollschlager whose telephone number is 571-272-8937. The examiner can normally be reached on Monday - Thursday 7:00 - 4:45, alternating Fridays.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianni can be reached on 571-272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JW

Jeff Wollschlager  
Examiner  
Art Unit 1732

May 10, 2006



**MICHAEL P. COLAIANNI**  
**SUPERVISORY PATENT EXAMINER**